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| APPLICATION NO.               | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-------------------------------|-------------|----------------------|---------------------|------------------|
| 09/530,719                    | 05/04/2000  | TADASHI YAMAURA      | 2565-198P           | 3186             |
| 2292                          | 7590        | 11/19/2003           | EXAMINER            |                  |
| BIRCH STEWART KOLASCH & BIRCH |             |                      | AZAD, ABUL K        |                  |
| PO BOX 747                    |             |                      | ART UNIT            | PAPER NUMBER     |
| FALLS CHURCH, VA 22040-0747   |             |                      | 2654                | 21               |
| DATE MAILED: 11/19/2003       |             |                      |                     |                  |

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                        |                     |
|------------------------------|------------------------|---------------------|
| <b>Office Action Summary</b> | <b>Application No.</b> | <b>Applicant(s)</b> |
|                              | 09/530,719             | YAMAURA, TADASHI    |
|                              | <b>Examiner</b>        | <b>Art Unit</b>     |
|                              | ABUL K. AZAD           | 2654                |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 25 August 2003.

2a) This action is FINAL.                    2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 19-22 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 19-22 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 25 August 2003 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. §§ 119 and 120

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) All b) Some \* c) None of:  
1. Certified copies of the priority documents have been received.  
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

13) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) The translation of the foreign language provisional application has been received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

#### Attachment(s)

|   |  |
|---|--|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                              | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ . |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)          | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____. | 6) <input type="checkbox"/> Other: _____ .                                   |

## DETAILED ACTION

### *Response to Amendment*

1. This action is in response to the communication filed on August 25, 2003.
2. Claims 19-22 are pending in this action. Claims 19-22 have been amended.
3. The applicant's arguments with respect to claims 19-22 have been fully considered but they are not deemed to be persuasive. For examiner's response to the applicant's arguments or comments, see the detailed discussion in the Response to the Arguments section.

### *Claim Rejections - 35 USC § 103*

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 19-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kondo (US 5,867,815) in view of Applicant's admitted prior art.

As per claim 19, Kondo teaches, "a speech decoding apparatus, wherein the speech decoding apparatus receives a coded speech including a gain code and synthesizes a speech", the speech decoding apparatus comprising:

"a gain decoder for inputting the gain code and for decoding a gain of a speech in a concerning decoding period based on the gain code input" (col. 5, lines 21-40, claimed element "gain" reads on "level");

"a noise level evaluator for evaluating a noise level of the speech in concerning decoding period by using the gain decoded by the gain decoder" (col. 5, lines 21-40);

"an excitation codebook storing time series vectors" (col. 5, lines 22-39, code book contains time series vectors)

"a noise level controller for changing a noise level of time series vectors output from an excitation codebook based on an evaluation result of the noise level evaluator" (col. 5, line 6 to col. 6, line 10).

Kondo does not explicitly teach a CELP decoder. However, Applicant's admitted prior art teaches a CELP decoder (Fig. 7). Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to use a known CELP decoder so that a known type better quality synthesized speech will be produced.

As per claims 20-22, they are interpreted and thus rejected for the same reasons set forth in the rejection of claim 19.

#### ***Response to Arguments***

6. The applicant argues: "Kondo does not change "noise level of the time series vectors" as recited in claim 19".

The examiner disagrees with applicant's assertions because Kondo teaches above features at col. 5, lines 6-40. Here level is not fixed because level is adjusted by the level controller based on the noise level determination.

***Conclusion***

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

***Contact Information***

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Abul K. Azad** whose telephone number is (703) 305-3838.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Richemond Dorvil**, can be reached at (703) 305-9645.

Any response to this action should be mailed to:

**Commissioner for Patents**

**Washington, D.C. 20231**

Or faxed to:

Art Unit: 2654

**(703) 872-9314**

(For informal or draft communications, please label "PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal  
Drive, Arlington, VA, Sixth Floor (Receptionist).

Any inquiry of a general nature or relating to the status of this application should  
be directed to the Technology Center's Customer Service Office whose telephone  
number is **(703) 306-0377.**

Abul K. Azad

November 17, 2003



RICHEMOND DORVIL  
SUPERVISORY PATENT EXAMINER